

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK (BROOKLYN)

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 THOMAS SMITH, also known as
7 papa,

8 Defendant.

Case No. 1:23-cr-00433-EK-3

Brooklyn, New York
November 3, 2023
2:36 p.m.9 TRANSCRIPT OF ARRAIGNMENT HEARING
10 BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

11 APPEARANCES:

12 For the Plaintiff:

Drew G. Rolle, Esq.
John O. Enright, Esq.
Matthew R. Galeotti, Esq.
U.S. Attorney's Office
271-A Cadman Plaza East
Brooklyn, NY 11201

15 For the Defendant:

Jeffrey S. Dahlberg, Esq.
Federal Defenders of New York
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18 Also Appearing:

Cheryl Lloyd
Sonya Smith
Jonathan Thompson

20 Clerk:

I.H.

21 Court Recorder:

Electronic Sound Recording

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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 (Call to order at 2:36 p.m.)

2 THE CLERK: Case number 23-CR-433, United States v.
3 Thomas Smith.

4 Counsel, starting with the Government, please state
5 your appearances?

6 MR. ROLLE: Good afternoon, Drew Rolle, Matthew
7 Galeotti, and John Enright for the Government.

8 MR. DAHLBERG: Good afternoon, Your Honor, Jeff
9 Dahlberg, Federal Defenders alongside Mr. Smith.

10 THE COURT: Good afternoon, Mr. Smith. Please be
11 seated. The purpose of today's proceeding is to make sure that
12 you know that the grand jury has returned an indictment against
13 you. The indictment contains three counts, securities fraud,
14 conspiracy, wire fraud conspiracy, money laundering conspiracy.

15 Have you seen the indictment and reviewed it with
16 your attorney?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: So the purpose of today's proceeding was
19 to make sure that you understand the nature of the charges and
20 to make sure that you understand that you have certain
21 constitutional rights.

22 So, first, you have to be represented by counsel at
23 today's proceeding and all future proceedings before the Court.
24 And if you are unable to afford counsel, you may make an
25 application to the Court and the Court will appoint counsel to

1 represent you. That's the first issue.

2 Mr. Dahlberg said that he was in the middle of
3 completing a financial affidavit. Now Federal Defenders are
4 the office within the Court with some of the best attorneys
5 that we see who represent people who are unable to afford their
6 own counsel.

7 And so, what is -- Mr. Dahlberg, what is the
8 situation here? You can put it on the record.

9 MR. DAHLBERG: Thank you, Your Honor. I had a chance
10 to meet with Mr. Smith. He would like to request that the
11 Court appoint counsel for today.

12 My understanding is that -- so he has retained
13 counsel in Utah, who is representing him on a civil matter.
14 And my understanding is Mr. Smith is continuing to have
15 some -- to explore whether it's feasible and financially to
16 have either that counsel or another counsel retained to
17 represent him.

18 THE COURT: So let me just say you do have the right
19 to counsel of your choice, but -- and I have no idea who this
20 retained counsel in Utah is for a civil case, but you would be
21 unwise to choose somebody just because they're representing you
22 in another forum because they know nothing about criminal law
23 and they know nothing about this Court.

24 So if that was what your intention was to get
25 somebody from Utah, who's representing you in a civil case,

1 please re-examine that thought process.

2 Okay, you don't have to answer to me, but I hear what
3 Mr. Dahlberg is saying is that you don't know that he'll
4 qualify, which was what my thought was looking at the Pre-Trial
5 Services Report he bought a property for \$815,000 in 2021. I
6 don't know how he would qualify for the appointment of counsel.
7 He has a monthly income of about \$10,000 a month.

8 MR. DAHLBERG: That's all accurate, Your Honor.
9 He's -- I mean, the Pre-trial Services Report also indicates
10 that he has monthly expenses of about \$8,000 a month. He
11 supports 5 other people, which includes his other --

12 THE COURT: I understand his mother, who has multiple
13 strokes and is bedridden; his father, who was in a car
14 accident. I understand. He's got a lot on his plate.

15 And if you're making the representation as a person
16 from Federal Defenders that he qualifies, that's different, but
17 I have no idea what representation you're making, Mr. Dahlberg,
18 because first, you said to me that you were just representing
19 him for purposes of today's proceeding.

20 So is that the position? You're going to stay on the
21 case? Or is the position that you're not staying on the case
22 and you're a placeholder and he's going to retain counsel?

23 MR. DAHLBERG: May I just for a moment, Your Honor?

24 MR. ROLLE: And, Judge, just if the Government may
25 for a moment?

1 THE COURT: Why don't you tell me what your position
2 is --

3 MR. ROLLE: Yes.

4 THE COURT: Mr. --

5 MR. ROLLE: Well, Your Honor I think we --

6 THE COURT: -- Rolle?

7 MR. ROLLE: -- as we understand it --

8 THE COURT: State your name for the record?

9 MR. ROLLE: This is Drew Rolle for the record, Judge.

10 THE COURT: Thank you.

11 MR. ROLLE: He was previously, well, when he was
12 arrested, we contact the lawyers with whom we've been engaged
13 for more than a year at Akin Gump here in New York, former
14 federal prosecutor, and a former SEC staff attorney who
15 represented him responding to grand jury subpoenas and our
16 investigation.

17 We learned about his arrest. This is all from the
18 Government's perspective. There's obviously probably more to
19 the story that they can speak to, but I just want to go through
20 the lawyers with whom we've interacted the past 72 hours.

21 So we alerted Mr. Altman at Akin Gump that he'd been
22 arrested. We then heard back from Mr. Altman and then, another
23 counsel, who I believe is the counsel in Utah.

24 THE COURT: Is it A-L-T-M-A-N?

25 MR. ROLLE: Yes Peter Altman, yes.

1 THE COURT: Thank you.

2 MR. ROLLE: And the Utah counsel I don't have
3 his -- Matt Lewis (phonetic), who we understand represents him
4 in connection with --

5 THE COURT: The SEC Matthew?

6 MR. ROLLE: Well, I think it's a private securities
7 action in relation to some of the same underlying facts. Now
8 we then spoke further with Mr. Lewis about our position on
9 detention and release and our thoughts as to the bond. We had
10 normal discussions that we might have with an attorney who's
11 going to represent him.

12 He then flagged that he's not in New York. He,
13 therefore, he expected his client to ask for Federal Defenders
14 for purposes of the hearing and to have time to explore whether
15 he will be retaining Mr. Lewis or something else. So --

16 THE COURT: So why would the Government -- I
17 understand that that was the name and you also had Mr. Altman's
18 name because Mr. Altman had represented Mr. Smith with regards
19 to subpoenas that had been served.

20 But why would the Government make the jump to start
21 discussing the charges before they've been given notice that he
22 has retained this Utah Matt Lewis?

23 MR. ROLLE: Our discussions appeared as if he was
24 working already for him. And so, the question of retainer, he
25 had contacted us before the question of his continued

1 appearance had been raised.

2 THE COURT: Meaning Matt Lewis had contacted the U.S.
3 Attorney's Office regarding the arrest of Thomas Smith?

4 MR. ROLLE: Right, when we reached out to Akin Gump,
5 the response was Akin Gump and this other lawyer --

6 THE COURT: Thank you. I didn't understand that.

7 MR. ROLLE: -- who responded to more information from
8 us. And we engaged them on that point. And then, the date was
9 set here and here we are. So I don't know the status of Mr.
10 Lewis.

11 THE COURT: And what happened up in the District of
12 New Hampshire when he first appeared?

13 MR. GALEOTTI: He had a federal.

14 THE COURT: Mr. Galley -- state your name for the
15 record? You can say it. You don't have to feed it to Mr.
16 Rolle. Go ahead.

17 MR. ROLLE: Yeah.

18 MR. GALEOTTI: Your Honor, we've been all handling
19 different aspects of this. This is Matt Galeotti for the
20 record.

21 For the -- in New Hampshire, what the court said is
22 that it's the rule that Mr. Smith has substantial assets and
23 appointed Federal Defenders for the purpose of the initial
24 appearance.

25 At that point, these conversations that Mr. Rolle

1 described occurred. And we had understood that retained
2 counsel would be appearing today until this morning when we
3 learned of this new development.

4 THE COURT: Two things, Mr. Galeotti, before you go
5 off the topic. So I don't know the Honorable Talesha Leah
6 Saint-Marc, who's the magistrate judge up in Concord, New
7 Hampshire.

8 Did the Court rule on whether he was entitled to
9 counsel or did they just punt it and say he has substantial
10 assets like I just did, but not do the analysis of whether in a
11 federal case of this type, he might qualify for the appointment
12 of counsel?

13 MR. GALEOTTI: We've requested an expedited
14 transcript, which we don't have yet. So the best I can do is
15 go off the conversations that we've had with the Assistant
16 United States Attorney in the District of New Hampshire. My
17 understanding is something more akin to the latter, Your Honor.

18 THE COURT: Meaning that they did not make a
19 determination or they did?

20 MR. GALEOTTI: I believe she reviewed the papers and
21 like Your Honor believed that based on the Pre-trial Report, it
22 seemed unlikely that he would qualify.

23 THE COURT: Well, again, I don't ever make that
24 determination. And I want to be clear on the record so that
25 Mr. Smith understands this and anybody else who's listening

1 understands this.

2 When somebody presents an application for counsel,
3 they give me what their financial statement is, which is what I
4 interrupted Mr. Dahlberg in getting from Mr. Smith when we went
5 on the record a little bit earlier than he expected us to.

6 However, you have to consider the whole picture here.
7 So if he's caretaking five people, even if he has a good
8 income, his income may now go down to zero. I don't know. I
9 don't know if these charges are going to impact what his
10 monthly income is or whether he has other sources.

11 I know he bought a property for \$815,000, which would
12 lead me to believe that he has substantial assets, but who
13 knows?

14 So I would like you to get that transcript. And I
15 would like to find out -- Mr. Smith, you don't need to answer
16 me today with, but Mr. Dahlberg is here to stand up today on
17 this indictment.

18 And I am telling you that the Federal Defenders are
19 some of the best attorneys we see, but he's going to have to
20 check with the people in his office whether you would qualify
21 even if you wanted to keep him as your attorney because if they
22 say you don't qualify, that's the end of that story, okay?

23 And down the road, if you run out of money, then you
24 might re-apply, but at this point in time, you have the right
25 to counsel. And if you cannot afford to counsel, the Court

1 will appoint counsel to represent you.

2 Will you just speak to your client for a moment and
3 see what you're going to put on the record today as our
4 situation?

5 MR. DAHLBERG: Yes, Your Honor.

6 THE COURT: Thank you.

7 (Counsel confers with the Defendant)

8 THE COURT: So while Mr. Dahlberg was discussing this
9 matter with Mr. Smith, I want to be transparent that Pre-trial
10 said that on the docket there was a representation that they
11 were only appointing counsel for the purpose of that
12 proceeding.

13 But as I said, a magistrate judge in New Hampshire,
14 who is seeing somebody on a removal complaint and the person is
15 indicted in this Court, that person can make an application to
16 this Court and I'm not tied to whatever the determination was
17 in the District of New Hampshire.

18 And really, my inquiry is he may want to retain
19 counsel. And therefore, this is all elementary and Mr.
20 Dahlberg will just be standing in today. And if that's the
21 situation, so be it.

22 But if he wants Mr. Dahlberg or the Federal Defenders
23 to continue to represent him, they should flesh out this issue.
24 We should know whether he's going to have any income after
25 today to support the five sick relatives that seemingly depend

1 on him.

2 So where are we going here, Mr. Dahlberg?

3 MR. DAHLBERG: May I just have another minute to
4 finish my conversation?

5 THE COURT: Certainly.

6 MR. DAHLBERG: Thank you.

7 (Counsel confers with the Defendant)

8 MR. DAHLBERG: Thank you for that time, Judge. I've
9 spoken with Mr. Smith and I think he had a misunderstanding as
10 to whether my office being appointed going forward would
11 preclude him from seeking other counsel in the future if he
12 chose to.

13 But now that we've cleared that up, he would like me
14 to take the position. And I think I would agree, based on my
15 review and my conversation with him, that he does qualify for
16 appointed counsel.

17 THE COURT: So please flesh that out a little bit
18 because it looks like he has a 1.2 million residence. He owes
19 \$180,000 for lawyer fees. He's got a car. He's got a personal
20 savings account of \$15,000. So they say his estimated net
21 worth is over a million dollars.

22 Now I understand that's with money coming in. And he
23 was expecting money to come in \$10,000 a month. So what is
24 your position as to why he would qualify?

25 MR. DAHLBERG: So first to clear up because I know

1 Your Honor had a question about whether Mr. Smith is going to
2 be able -- is going to still after a job after today
3 essentially.

4 And the answer to that is, yes, he is permitted -- I
5 believe my understanding is a security clearance that he
6 possessed with the company that he contracted for has been
7 suspended.

8 However, he has been permitted to continue to do work
9 on a contract basis with that company that's named in the
10 Pre-Trial Services Report.

11 In fact, one of our proposed sureties is an employee
12 of that company, who's here in his personal capacity to support
13 Mr. Smith because he believes in Mr. Smith and knows him well.

14 THE COURT: So what would that be a month? Again,
15 when you're telling me that he would qualify for counsel, I
16 have no idea what -- I only have what I have.

17 And most people, Mr. Smith, do not have million
18 dollar homes nor do they have the possibility of making \$10,000
19 a month that qualify for Federal Defenders of New York.

20 That doesn't mean that you wouldn't qualify. What
21 I'm trying to say is I know that there are people that depend
22 on you and that you also apparently have your own chronic
23 medical issues.

24 MR. DAHLBERG: So, Your Honor, that has not changed.
25 Mr. Smith is going to continue to have to support those members

1 of his family to pay some significant medical expenses every
2 month including for himself and to keep a home running, where
3 his parents, and aunt, his wife and two friends are living. He
4 is not charging them rent or anything of that nature. So his
5 income is going to be the same.

6 THE COURT: Does he own it outright?

7 MR. DAHLBERG: I'm sorry?

8 THE COURT: Does he own the home out right?

9 MR. DAHLBERG: Yes, Your Honor. However, I would
10 note that that home is -- that property is named in the
11 indictment as being subject to forfeiture.

12 THE COURT: Forfeiture?

13 MR. DAHLBERG: Yes.

14 THE COURT: Okay.

15 MR. DAHLBERG: So I don't believe it would be --

16 THE COURT: Can I just ask, does the Government have
17 any opposition that they want to state on the record to the
18 Federal Defenders' representation that he would qualify for
19 appointment of counsel?

20 MR. ROLLE: I wouldn't say opposition. I think that
21 it's premature and we have an incomplete record as to his
22 assets. I say that knowing that he, as we sit here today, has
23 control over crypto currency wallet addresses that have more
24 than 40 to almost \$40,000 in them stated to the agent.

25 And that's on what we can see on the block chain. He

1 stated at the time of his arrest that he doesn't use -- he
2 likes to use paper wallets, which just for Your Honor's
3 edification on this point, it's new to me, is that these are
4 things we can't even see. We have to then un -- it's cold
5 storage, it's off the chain. We have to see what is in them.

6
7 Now none of that is reflected in the affidavit. And
8 I'm not passing any -- make any point about it was purposely
9 left off here or forgotten or what. It's --

10 THE COURT: Or somebody didn't know what wallet --

11 MR. ROLLE: Exactly. Somebody didn't know what to
12 ask about. My point is there other assets that are out there
13 that we are aware of, digital assets that are --

14 THE COURT: So let me just without trying to say that
15 I foreclose anybody because do whatever inquiry you need, due
16 diligence on both sides. The Federal Defenders doesn't want to
17 represent somebody if they could retain counsel.

18 But on the flip side of it, he supports five other
19 people, even if he continues without the security clearance for
20 whatever company it is who is contracting, it sounds like he
21 and his family members have substantial health issues.

22 And so, the home that you have now said in this
23 indictment is subject to forfeiture is not going to help them
24 pay those bills. Even though the home's paid off, they would
25 have to sell the home in order to pay other bills.

1 So since I know that this type of case may take a
2 good amount of time to resolve, I am going to appoint Federal
3 Defenders to represent Mr. Smith subject to both sides re-
4 visiting this issue if there's further information that the
5 Court needs know about.

6 MR. ROLLE: I think that's appropriate. Thanks,
7 Judge.

8 THE COURT: Okay, Mr. Dahlberg?

9 MR. DAHLBERG: That is --

10 THE COURT: And so, that's the first. You can be
11 seated now. So, Mr. Smith, I've appointed Mr. Dahlberg, who's
12 a member of the Federal Defenders of New York.

13 As I've said, they're some of the best lawyers that
14 we see. Just because you're not paying for his services don't
15 underestimate the quality of the representation.

16 They only represent people in this Court. They do no
17 other work. So they are very well acquainted with what goes on
18 in these types of cases, although I can say it is unusual for
19 them to represent somebody who has a million dollar home.

20 But with all the other things I've put on the record,
21 I've explained why I believe it is in the interest of justice.
22 And I'm making that appointment, which can be revisited if need
23 be.

24 You have the right to remain silent. If you started
25 to make a statement, you may stop. Any statement you make to

1 anyone other than your lawyer can be used against you. Do you
2 understand you have the right to counsel and the right to
3 remain silent? I need you to use your voice.

4 X: Yes, I understand, Your Honor.

5 THE COURT: Very good. And as I asked first, did you
6 have a chance to review the indictment, the charges you with
7 three counts with your attorney?

8 X: I have.

9 THE COURT: And do you understand the charges that
10 are being made against you?

11 X: Not fully, but.

12 THE COURT: I didn't ask do you agree with them, but
13 do you understand what they are alleging?

14 X: That's why I was saying not fully, but I know
15 what the three big points. I understand.

16 THE COURT: And you've reviewed the indictment with
17 your attorney?

18 X: Yes.

19 THE COURT: So, Mr. Dahlberg, have you reviewed the
20 indictment with Mr. Smith?

21 MR. DAHLBERG: Yes, Your Honor. It's not in much
22 detail. It's a lengthy indictment and we spent most of our
23 time working on other issues, but Mr. Smith did get a copy.
24 He's had a copy for several days now. I would -- and he
25 reviewed it also in New Hampshire. And I will make sure

1 I -- that he understands it before he needs to --

2 THE COURT: And have you advised him of his
3 constitutional rights?

4 MR. DAHLBERG: Yes, Your Honor.

5 THE COURT: And do you wish me to read the indictment
6 aloud?

7 MR. DAHLBERG: No, Your Honor.

8 THE COURT: And is your client prepared to enter a
9 plea?

10 MR. DAHLBERG: Yes he's prepared to enter a plea of
11 not guilty.

12 THE COURT: A plea of not guilty shall be entered on
13 behalf of Thomas Smith to all counts in the indictment. Okay,
14 so now, what is the Government's position on the question of
15 detention or bail?

16 MR. ROLLE: Your Honor, the Government believes that
17 while this Defendant could be released, that we need a
18 substantial bond with a number of specific conditions.

19 We have flagged those for counsel here today and the
20 other lawyers who have contacted us in the past couple of days.
21 I'm happy to walk through those and the basis for the request.

22 THE COURT: Well, did you see what the Pre-Trial
23 Addendum recommends, because that's what I was looking at?

24 MR. DAHLBERG: I did see what the Pre-Trial Addendum
25 recommended.

1 THE COURT: And so, that would be my starting point,
2 which has restrictions on travel and if he has any passports,
3 getting those.

4 And reporting to Pre-trial Services and subject to
5 random visits and random drug evaluation, testing and
6 treatment, and mental health evaluation if needed, and
7 verifiable employment. No contact with victims or witnesses or
8 co-Defendants.

9 Surrendering any firearms, not accessing any digital
10 currency wallets, digital assets or digital tokens, either
11 paper or electronic, and must not transfer any convertible
12 virtual currency or direct anyone to do so on his behalf.

13 Must not engage in any virtual currency purchases or
14 sales or direct anyone to do so on his behalf and must disclose
15 any new accounts opened at any financial institution to
16 Pre-trial Services. Does that cover our basis?

17 MR. ROLLE: Think broadly, yes, I think we have
18 tweaks to them that we think are appropriate here.

19 THE COURT: Raise it now.

20 MR. ROLLE: So we would be asking for a million
21 dollar bond partially secured ideally. I think we've spoken
22 with counsel. And I think an unsecured bond in that amount, we
23 would be okay from our perspective.

24 I think we would look for more than one responsible
25 surety. We're ask for home detention with electronic

1 monitoring for Pre-trial Services to monitor the electronic
2 devices that he has in the home.

3 THE COURT: Can we roll one back, okay?

4 MR. ROLLE: Sure.

5 THE COURT: Okay, I have no problem with the
6 electronic monitoring of the devices. Why does this person
7 have to be on home detention? He has no criminal history.

8 I understand he lives in New Hampshire and that's
9 near the border, but he's got five people that depend on him
10 sticking it out where he is. We could get a confession of
11 judgment on the property, so that he is tied to that property,
12 but I don't want with all these health conditions for that to
13 become every time he needs to take somebody somewhere, or
14 himself for that to be onerous for -- we're asking for our
15 sister district in New Hampshire to oversee this. And I don't
16 want it to be overly burdensome.

17 MR. ROLLE: And so, we hadn't heard of the sort of
18 health responsibilities that we learned of today. I think it's
19 a fair point, but I do think a restriction on his movement in
20 some manner, a curfew, which would allow him to be out during
21 the times any of those things would occur and home when the
22 curfew is up would address the concern.

23 THE COURT: But again, I'm asking you is that because
24 you think he's a risk of flight?

25 MR. ROLLE: I think --

1 THE COURT: Even he has all of these relationships
2 and you're going to have the paperwork for his biggest asset,
3 the million dollar home in your hands?

4 MR. ROLLE: Yes, Judge. This is a case in which
5 these assets are accessed from anywhere.

6 THE COURT: Not the home.

7 MR. ROLLE: I'm talking possibility to flee. We had
8 a Defendant who is still at large, who's in Dubai. His
9 co-conspirator.

10 THE COURT: But that's not him.

11 MR. ROLLE: But I think reflects what this case is
12 about. These folks have been focused on this investigation.
13 They made partial productions of information in part to hide
14 document from the Government, which is obstruction, which we
15 think there's a risk of. And I think there needs to be
16 something to assure that that's addressed.

17 THE COURT: Mr. Rolle, I completely understand, but I
18 am not going to tar Mr. Smith with the brush of his
19 co-defendants. I take each --

20 MR. ROLLE: They were communicated about the case,
21 Judge. I think it's relevant. I think it's relevant.

22 THE COURT: That his co-defendant is in Dubai is
23 relevant to whether he's going to flee when he has ill family
24 members and he himself has a very serious illness?

25 MR. ROLLE: I do, Judge. I think it is relevant. I

1 think two of the three Defendants in this case have
2 (indiscernible) their ties abroad.

3 And it's not a small feat to do so and I think that
4 risk can be mitigated short of home detention, but with some
5 tip of curfew given the seriousness of this case, his access to
6 substantial assets, his ability to leave or not appear.

7 He can go to Canada. He could also just not come
8 back.

9 THE COURT: Except in the ill family members who are
10 being treated in New Hampshire or left and he's going to have
11 to re-locate everybody.

12 MR. ROLLE: But I'm not quite sure those folks factor
13 as much into his life as we're saying today.

14 THE COURT: I have no idea.

15 MR. ROLLE: Given the case, given the conduct, given
16 what's brought us here today. He bought this home with
17 proceeds. He then moved the family there. These are things
18 he's chosen and has done.

19 This house is here. They live there. Whether he's
20 here or not, they're not -- I would suspect they would remain.
21 His wife is here.

22 THE COURT: Except that if you take his home where
23 they all live, which is what I'm suggesting that we put the
24 confession of judgment instead of the electronic bracelet on,
25 then he's got a mother who suffered multiple strokes and is

1 bedridden, a father who had a car accident and part of his
2 brain was removed, and they are at this home.

3 MR. ROLLE: I understand., Your Honor, but I'm saying
4 the emphasis we're placing today is not emblematic of the
5 conduct that this Defendant in the course of the scheme up
6 until now this is something who flies to Miami.

7 THE COURT: But can I just ask you. He's known about
8 this because of the Akin Gump guy. And he got the Matt Lewis
9 guy. So he's known about this for a while.

10 MR. ROLLE: An --

11 THE COURT: He could have left, yes, obstructed is
12 another charge that you might level in a superseding
13 indictment.

14 MR. ROLLE: I think under the Bail Reform Act, it's
15 the core question we're addressing today and the conditions
16 that we're imposing to mitigate that risk. That's why I'm
17 raising it.

18 THE COURT: Wait, wait, wait, I didn't follow that.
19 The instruction is one of the things I should consider in
20 whether he's a risk of flight?

21 MR. ROLLE: No, as to whether the conditions we are
22 asking for are required to mitigate it. We're talking about
23 flight. We're ignoring the obstruction. I think all of them
24 are intermixed and should be addressed with the curfew.

25 THE COURT: But I'm just saying I shouldn't have to

1 consider what Nagy (phonetic) or Caroni (phonetic) did in terms
2 of what Mr. Smith -- his conditions are, even if they did go
3 out of this country and they're beyond the reach of
4 extradition.

5 I get what you're saying, but I don't think that's my
6 job to make sure Mr. Smith has more onerous terms than I would
7 ordinarily put on him because the co-defendant has taken some
8 action.

9 MR. ROLLE: I'm simply saying people in these cases
10 can flee. They've done it in this case. So we can't just say
11 it's fine and he'll stay there. We're trying to forecast the
12 future looking at the data points of today. And I think
13 they're relevant to the determination.

14 THE COURT: But, again, in looking at Pre-Trial
15 Services, and I do understand that you didn't get to stand over
16 the Pre-Trial Services officers in either New Hampshire or in
17 our Eastern District, but they're not recommending that I put
18 him on a monitor.

19 MR. ROLLE: Understood, Your Honor.

20 THE COURT: And so, that's why I'm pushing back.

21 MR. ROLLE: New Hampshire didn't pass judgment on the
22 case. That was made explicit on the record there. I take that
23 Eastern District of New York has not recommended that. We
24 disagree. We simply disagree.

25 THE COURT: Okay, thank you. Mr. Dahlberg?

1 MR. DAHLBERG: Thank you, Your Honor. We would
2 certainly -- we're certainly open to release conditions. Mr.
3 Smith does not object to the conditions that have been proposed
4 by Pre-Trial Services. We don't think location monitoring or a
5 curfew or home detention are appropriate here.

6 The Government wants the Court to consider the data
7 points as it says. I think the Court should also consider the
8 data points of Mr. Smith Specifically.

9 And that's that as the Government pointed out, he's
10 known about this investigation for I believe at least a year.
11 He appeared in New Hampshire two days ago. He was released on
12 conditions and he's here today.

13 So Mr. -- there's nothing that Mr. Smith has done
14 that would show that he's actually a risk of flight. I don't
15 even think the Government's met their burden of establishing a
16 serious risk of flight for -- to ask for detention in the first
17 place.

18 THE COURT: Well, again, they're not asking for
19 detention. They're asking for me to impose location monitoring
20 and a curfew.

21 And so, I'm going to adopt all of the recommendations
22 of Pre-Trial Services. And those will be the conditions that I
23 am willing to impose here.

24 And I do note that there were substantial firearms,
25 but I believe they were turned over already to the in-laws.

1 And I do understand what your point is, Mr. Rolle,
2 but again under the Bail Reform Act, I'm supposed to impose the
3 conditions that I believe will make sure that he remains to
4 face these charges and that he's not a danger to the community.

5 I do understand there's a lot going on in this case
6 that I don't know about. And I imagine you and Mr. Enright and
7 Mr. Galeotti have been working on it for a long time, but I am
8 dealing with a sophisticated case where a guy has a lot of
9 things that in my mind are not fungible.

10 Whereas money is fungible. The parents with the very
11 serious health conditions living at this premises that you have
12 a forfeiture on, but it's -- we're far from the goal line here.
13 He was just indicted.

14 So I'm going to adopt the conditions as set forth in
15 the Addendum, the Pre-Trial Services Addendum, which is
16 everything I read into the record.

17 I am not going to put him on a curfew. If there's a
18 reason why we need to re-visit that, you know how to re-visit
19 it.

20 If there's any indication as we go forward that he is
21 getting closer to the line of trying to disappear or whatever I
22 is that your concerns would be, you could raise them to the
23 Court.

24 MR. ROLLE: Thank you, Your Honor. I hadn't finished
25 the other conditions that we were going to ask for beyond

1 curfew, where we paused. I'm happy to ask for them now or.

2 THE COURT: Go ahead.

3 MR. ROLLE: Thank you, Your Honor. We had asked for
4 the Pre-trial Services monitoring electronic devices.

5 THE COURT: We put that in, yes.

6 MR. ROLLE: And then beyond that, there's a
7 restriction as to the accessing of digital currency wallets.
8 Just tinkering with that language, we want to make sure there's
9 no access to cryptocurrency exchanges or trading platforms
10 entirely.

11 THE COURT: That's fine.

12 MR. ROLLE: And then, the no -- on the no contact
13 provision, I think we also want to say explicitly that there
14 not be contact with any current or former SafeMoon employees or
15 contractors, anyone who worked for his former entity.

16 THE COURT: Is the -- and I don't know this, is the
17 place where he thinks that he will be able to continue
18 employment for affiliated?

19 MR. ROLLE: I don't believe so. Your Honor, we're
20 happy to hear more about that. We had learned of it at the
21 arrest. We don't have any information that they're connected.

22 THE COURT: So, in other words, they don't want him
23 to do anything with SafeMoon?

24 Felix, there's almost no room to write anything here.
25 Can I ask you, Mr. Rolle, there were two other conditions that

1 you just read in that we have no problem with. One is here.

2 Yeah, have him write it on that and we'll put it in.

3 Thank you.

4 Okay, who are the people who are going to sign on to
5 a bond for Mr. Smith?

6 MR. ROLLE: I just have one more, Your --

7 THE COURT: Oh, go ahead, Mr. Rolle.

8 MR. ROLLE: And then, no investment promotional
9 activities during the pendency of the case.

10 THE COURT: I don't know what that means so no
11 investment promotional --

12 MR. ROLLE: Yeah.

13 THE COURT: -- activities?

14 MR. ROLLE: Securities cases, we have asked for and I
15 think the languages that he can't go out and solicit
16 investments and --

17 THE COURT: I thought he was the tech guy in this
18 whole thing?

19 MR. ROLLE: Well, he at the time --

20 THE COURT: I didn't think he was the salesman. He
21 just doesn't look to me to be the salesman here.

22 MR. ROLLE: Judge, and I think in this phase, it's a
23 whole different ballgame of what is sales, what is not, but he
24 was as the indictment reflects the marketer of the token along
25 with the other Defendants. And we understand that there are

1 other cryptocurrency projects that happened after this one.

2 THE COURT: Let's not go way down the road. Do you
3 have any opposition to that extra term?

4 MR. DAHLBERG: No objection.

5 THE COURT: Write on the page, we'll put it on the
6 bond. Now who is it that's coming up to sign this bond?

7 MR. DAHLBERG: Mr. Smith has three individuals who
8 are here today that came with him, his mother-in-law Cheryl
9 Lloyd (phonetic), his wife Sonya Smith (phonetic), and his
10 friend Jonathan Thompson (phonetic).

11 THE COURT: If you don't mind, could you all come to
12 this podium, please? Do you have the names?

13 MR. DAHLBERG: Yes.

14 THE COURT: You just push the. No, no, no, just the
15 podium, please. Thank you. Okay, my deputy's going to swear
16 to the truth of the testimony. Thank you.

17 THE CLERK: The Judge is going to ask you questions,
18 so I'm going to put you under oath. Please raise your right
19 hand.

20 THE COURT: Right hand.

21 MR. THOMPSON: Right hand.

22 (Ms. Lloyd, Ms. Smith, and Mr. Thompson are sworn)

23 THE CLERK: Please state your name for the record and
24 speak loudly. It's being recorded.

25 MR. THOMPSON: Jonathan Thompson.

1 MS. SMITH: Sonya Smith.

2 MS. LLOYD: Cheryl Lloyd.

3 THE CLERK: Thank you.

4 THE COURT: Mr. Thompson, Ms. Smith, and Ms. Lloyd,
5 I'm sorry for the circumstances that bring you to our
6 courthouse today. As you've been made aware, Mr. Smith has
7 been charged with a serious federal crime.

8 And as you can see, the Government is seeking not for
9 him to be held pending his charges on this matter. They're
10 agreeing that he could be released, but they're concerned with
11 what they don't know and what -- I bet Mr. Smith's a really
12 smart guy and what we could manage to do.

13 And so, it is their job to ensure that he remains to
14 face these charges. And it is my job that I set the least
15 restrictive terms that I can set to make sure that he is not a
16 danger to the community and that he is not a risk of flight.

17 And part of the Government's concern, well-founded
18 I'm sure, they know more about the case than I do, certainly
19 more than you guys do, is that other people have fled, one.

20 And two, that because Mr. Smith's a pretty smart guy,
21 if he wanted to get out of the country, he could probably
22 figure out a way.

23 Then he would have problems down the road, because he
24 wouldn't be able to come back to the country, but there are
25 people who are willing to do that.

1 So they want me to impose a number of conditions. As
2 you've heard I've pushed back somewhat, but there are quite a
3 few conditions.

4 And bottom line, I'm the only that gets to set this
5 bond. So it has to be for a substantial amount because the
6 home is worth a substantial amount. And even though he does
7 not have a passport and he haven't travelled outside the
8 country, I have to make sure that he's going to come back.

9 So I'm setting the bond in the amount of \$500,000.
10 And that is a promise that he will come back. That's not
11 \$500,000 that you're taking out of your pocket or going to a
12 bail bondsman to post.

13 And these are the conditions. And he's asked you all
14 to sign onto this bound. So if you sign the bond and he
15 doesn't live up to his obligations, in addition to ruining his
16 own life, the Government can go after you for the full amount
17 of bond.

18 Okay, so these are the conditions. He must appear in
19 Court as required, surrender as directed for service of any
20 sentence imposed.

21 You must not commit a federal, state or local crime
22 while on release. You must cooperate in the collection of a
23 DNA sample if it's authorized by law.

24 You must advise the Court in writing before making
25 any change in residence or telephone number. You must not

1 possess a firearm, destructive device, or other dangerous
2 weapon, even if it's the live free or die state that you live
3 in.

4 You must not use or unlawfully possess a narcotic
5 drug or other controlled substance unless prescribed by a
6 licensed medical practitioner. And I remind you that marijuana
7 is still prohibited under federal law.

8 That you must submit to Pre-trial supervision and
9 report to Pre-trial as directed. They're not law enforcement,
10 they're an arm of the Court that makes sure that you're living
11 up to the obligations that I set in the bond.

12 You're subject to random home contacts and
13 verification of employment as deemed appropriate to monitor
14 compliance with the conditions of release. And you must notify
15 Pre-trial Services as soon as possible of any new arrest.

16 You have no passport, Mr. Smith?

17 THE DEFENDANT: No, I don't.

18 THE COURT: And you may not get any passport or other
19 international travel document. You must not leave New York and
20 New Hampshire and travel in between. That's where you will
21 remain.

22 And you must not have any contact with any
23 co-defendants except in the presence of counsel, any victims or
24 witnesses. Do you understand?

25 THE DEFENDANT: I do.

1 THE COURT: And you must undergo testing, evaluation,
2 and treatment for substance abuse as directed by Pre-trial.
3 And you must undergo evaluation and treatment for mental health
4 problems as directed by Pre-trial.

5 You must surrender any firearms to your in-laws. And
6 you must not access any digital currency, wallets, digital
7 assets, or digital tokens either paper or electronic.

8 And you must not transfer any convertible virtual
9 currency or direct anyone to do so on your behalf. Do you
10 understand?

11 THE DEFENDANT: I understand.

12 THE COURT: And you must not engage in any virtual
13 currency purchases or sales and you must disclose any new
14 accounts to Pre-trial Services. Do you understand?

15 THE DEFENDANT: I understand.

16 THE COURT: And your electronic devices will be
17 subject to monitoring by Pre-trial. Do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT: And you should have no access to
20 cryptocurrency or digital asset exchanges or trading platforms.
21 Do you understand?

22 THE DEFENDANT: I understand.

23 THE COURT: You shall not engage in any investment
24 promotional activities. Do you understand?

25 THE DEFENDANT: I understand.

1 THE COURT: And you should have no contact with
2 current or former employees or contractors of SafeMoon U.S.,
3 LLC or any of its subsidiaries and affiliates. Do you
4 understand?

5 THE DEFENDANT: I understand.

6 THE COURT: Do you know who all the subsidiaries and
7 affiliates are?

8 THE DEFENDANT: No.

9 THE COURT: Can the Government supply that?

10 MR. ROLLE: Yes, I actually think they're Defendants
11 in lawsuits to which he's a party, but we can get a list of the
12 names to counsel.

13 THE COURT: I want you to give him a list of the
14 names because if he's not sure who they are, I don't want him
15 to for any reason violate the terms and conditions unwittingly.

16 THE CLERK: Judge, do you want property also?

17 THE COURT: Yes, there's going to be the property
18 that is where you live, I believe, the 240 Valley View Lane,
19 Bethlehem, New Hampshire, which going to be the papers for that
20 property are going to be put into the county court where the
21 property is.

22 You can't sell the property. You can't re-finance
23 the property. They're just going to hold the papers for the
24 property.

25 If for -- are you the sole owner of the property?

1 THE DEFENDANT: Yes.

2 THE COURT: If no any reason, you violate the
3 conditions, it will make it easier for them to get the \$500,000
4 because it sounds like the property's worth more than that, but
5 they'd be able to sell the property to collect the full
6 \$500,000. Do you understand, Mr. Smith?

7 THE DEFENDANT: I understand.

8 THE COURT: Okay, so now, I've read all the
9 conditions. Yes, Mr. Dahlberg?

10 MR. DAHLBERG: Your Honor, is there a date by which
11 he's got to record that?

12 THE COURT: I would say next week is a short week, so
13 we'll give you two weeks because it's in New Hampshire. Is
14 that going to give you sufficient time?

15 MR. DAHLBERG: Oh, yeah, okay. I'll just give him
16 some guidance. I --

17 THE COURT: Well, again, Mr. Dahlberg, is there a
18 Federal Defenders in New Hampshire?

19 MR. DAHLBERG: There are, yes. And my office can
20 also help.

21 THE COURT: Okay. So between Mr. Dahlberg and
22 his -- every state has different rules about how this happens,
23 but since you're putting the premises in, I'm going to require
24 you to do it by November 17th. We're at November 3rd today.
25 That gives you two weeks to do this, okay?

1 MR. DAHLBERG: Thank you.

2 THE COURT: All right, now I'm back to you, Ms.
3 Smith. I understand you're married to Mr. Smith, is that
4 correct?

5 MS. SMITH: Yes.

6 THE COURT: How long have you been married?

7 MS. SMITH: Two years.

8 THE COURT: Do you have any children?

9 MS. SMITH: No.

10 THE COURT: And --

11 MS. SMITH: Well, I mean, we have his stepson, but
12 it's not -- I don't have any physical children.

13 THE COURT: And how old is the stepson?

14 MS. SMITH: He's eight years.

15 THE COURT: Does he live with you?

16 MS. SMITH: Yes. He lives with us, five -- he goes
17 to school in Bethlehem, where we are. And he goes to his
18 mother's on the weekends.

19 THE COURT: But he comes to the premises?

20 MS. SMITH: Yes, yes, he lives with us.

21 THE COURT: So you have responsibility for him? And
22 what do you for a living, Ms. Smith?

23 MS. SMITH: I'm unemployed right now.

24 THE COURT: What was your last job?

25 MS. SMITH: My large job would be I do graphic design

1 consulting.

2 THE COURT: And when was that?

3 MS. SMITH: The last year. It was probably about two
4 and a half years.

5 THE COURT: So before you were married?

6 MS. SMITH: It was around the -- yeah, it was, yeah,
7 it was right before we were married.

8 THE COURT: And Ms. Lloyd, you're the mother-in-law?

9 MS. LLOYD: Yes.

10 THE COURT: What do you to go for a living?

11 MS. LLOYD: I'm retired.

12 THE COURT: And what did you do before you the
13 American dream retired?

14 MS. LLOYD: Well, my husband owns a business. So I
15 help him out, but I -- the last time I had a job was -- well,
16 it was 2020. I worked at J.C. Penney in North Conway for three
17 years.

18 THE COURT: For three years?

19 MS. LLOYD: Yeah.

20 THE COURT: And what's the business your husband
21 owns?

22 MS. LLOYD: It's an RV dealership.

23 THE COURT: Love the accent. RV dealership, I'm
24 sorry, that was very sweet.

25 MS. LLOYD: I'm from New Hampshire.

1 THE COURT: I love that.

2 MS. LLOYD: I just have a North accent.

3 THE COURT: They say we have accents in Brooklyn. We
4 have no accents in Brooklyn. Okay, anyway, I'm sorry. And I
5 understand that you have already taken all the weapons that
6 were --

7 MS. LLOYD: Yes.

8 THE COURT: And so, they're at a separate property
9 not anywhere near this property?

10 MS. LLOYD: Correct.

11 THE COURT: Okay, and you understand the two of you,
12 I'll get Mr. Thompson in a middle -- minute that if for any
13 reason Mr. Smith does not live up to his obligations, that the
14 Government's going to go after all three of you and any
15 combination in any order to collect the full half a million
16 dollar bond that I've said today?

17 MS. LLOYD: Yes.

18 THE COURT: And so, they could go after your bank
19 account. They could take any property you own to sell it like
20 the house? Do you both understand that?

21 MS. LLOYD: Yes.

22 MS. SMITH: Yeah.

23 THE COURT: Okay, Mr. Thompson, how do you fit into
24 this picture? How do you know Mr. Smith?

25 MR. THOMPSON: I have been a business associate of

1 Mr. Smith since '21, 2021, outside of SafeMoon. This was a
2 project we worked on before that all happened.

3 And since then, we've been very good friends. I
4 still continue to his -- he contracts as a third-party
5 contractor for my company currently. And I supervise that line
6 of business.

7 THE COURT: So what is your business, sir?

8 MR. THOMPSON: I am a Government contractor. That's
9 all I can say to the Court.

10 THE COURT: Okay, but --

11 MR. THOMPSON: If we want to have a conversation, we
12 can have a conversation.

13 THE COURT: I think they're going to want a
14 conversation --

15 MR. THOMPSON: That's fine.

16 THE COURT: -- because again, he's doing --

17 MR. ROLLE: I'm not at liberty right now to say the
18 name of my company and what we do in open court, but I can have
19 a conversation.

20 THE COURT: Okay, so how about this? How much money
21 did you make last year?

22 MR. THOMPSON: I made \$157,000 last year roughly.

23 THE COURT: Thank you. And are you a techie?

24 MR. THOMPSON: I am a techie. I'm a director of
25 program technology. And I do hold a top secret SCI clearance

1 as well.

2 THE COURT: Okay. So, again, you understand what's
3 going on here?

4 MR. THOMPSON: Yeah.

5 THE COURT: And you understand that their concern is
6 that he violated laws relating to securities and money
7 laundering and wire fraud, all related to securities. Is that
8 fair to say, Mr. Galeotti?

9 MR. GALEOTTI: Yes, Your Honor.

10 THE COURT: Okay. So, again, the Government could go
11 after you, Mr. Thompson, and any accounts that you own, any
12 payments that you're expecting from the Government that would
13 be easy to be intercepted by the Government.

14 So if he doesn't live up to his obligations, he could
15 financially ruin all three of you.

16 MR. THOMPSON: Yes, ma'am.

17 THE COURT: Do you all understand that?

18 MR. THOMPSON: Yes.

19 MS. LLOYD: Yes.

20 THE COURT: And do you still want to sign this bond
21 with all the conditions that have been read into the record?

22 MR. THOMPSON: Yes, ma'am.

23 MS. LLOYD: Yes.

24 MS. SMITH: Yes.

25 THE COURT: Okay. While they're signing, Mr. Smith,

1 I'm going to give you the following warnings which I'm required
2 to do by law.

3 If for any reason you don't come back to Court when
4 you're directed to do so, agents will be sent to find you.
5 You'll be placed under arrest and the likelihood is you will
6 not be released again pending your trial on the charges that
7 you are now accused of.

8 In addition, there's a separate federal crime called
9 bail jumping. Bail jumping is punishable by up to 10 years in
10 prison. So even if you were never convicted of the crime for
11 which you stand accused, you can be convicted of bail jumping.

12 Last, but not least, if you commit any other crime
13 while you're out on bail, they can enhance the penalty for the
14 crime you commit.

15 If you commit a felony in New York while out on bail,
16 they could add 10 years to the sentence because you committed
17 the crime while out on bail. Do you understand all of those
18 warnings?

19 THE DEFENDANT: I understand.

20 THE COURT: And will you come back to Court whenever
21 you're directed to do so?

22 THE DEFENDANT: 100 percent, I will.

23 THE COURT: And will you abide by all the other
24 conditions that have been set forth on the record?

25 THE DEFENDANT: Every single one of them.

1 THE COURT: Thank you very much. Then I'll ask you
2 after they sign for you to sign. It wasn't the trip to New
3 York you had planned, right?

4 MR. THOMPSON: That's right. Thank you.

5 THE COURT: So Ms. Lloyd, Ms. Smith, Mr. Thompson,
6 thank you. You could all be seated. Thank you.

7 MR. THOMPSON: Thank you, Your Honor.

8 MR. DAHLBERG: Your Honor, can I ask a clarification
9 on one condition?

10 THE COURT: Certainly.

11 MR. DAHLBERG: The monitoring of electronic devices,
12 could there be some clarification on what's being monitored?
13 What would constitute --

14 THE COURT: Any electronic device that he is using
15 can be monitored by Pre-trial correct, Ms. -- Mr. Long
16 (phonetic)?

17 MR. LONG: With a broad condition of his devices,
18 that would refer to any cell phones, tablets, and laptops that
19 he would (indiscernible) --

20 MR. DAHLBERG: Would that be extended to software
21 that's -- alerts if there are certain sites that are accessed -
22 -

23 MR. LONG: Well --

24 MR. DAHLBERG: I just want to make sure
25 communications with --

1 THE COURT: I think that they can look without
2 getting a warrant, right? You can sort of monitor what he's
3 doing on those devices?

4 MR. LONG: If you can just finish your sentence, I
5 think --

6 MR. DAHLBERG: Yeah, there -- I just want to make
7 sure communications with counsel are going to be --

8 MR. LONG: Oh, okay.

9 MR. DAHLBERG: -- filtered out.

10 MR. LONG: So we look at everything, but as far as
11 your communications, especially doing the email, he would
12 actually flag your email and make sure we note your
13 communications, that it's a privileged, you know. That's
14 pretty standard in every site we monitor.

15 MR. DAHLBERG: Okay. Thank you.

16 MR. ROLLE: And just, I mean, probably for the
17 Defendants?

18 THE COURT: Yes, go ahead standard --.

19 MR. ROLLE: We're not part of that. That has nothing
20 to do with us.

21 THE COURT: So Pre-trial is as I say an arm of the
22 Court. They're not part of the Government's oversight or what
23 they're asking for. They're trying to make sure you're living
24 up to the conditions I've set.

25 They're going to monitor the computer and the

1 devices, so that all these other things that they insisted on
2 like the digital assets, not opening accounts, blah, blah,
3 blah, I'm sorry to call it blah, blah, but that's what they're
4 going to be monitoring for.

5 So they're not interested in trying to invade your
6 communications with your counsel. That's what Mr. Dahlberg's
7 concern was.

8 Mr. Dahlberg will know how to uphold your rights in
9 this matter and Pre-trial is not interested in invading your
10 rights, okay? I've taken a signatures of Mr. Smith. Mr. Smith
11 Says that he understands and that he'll come back.

12 And I've given Mr. Smith two weeks to file the
13 confession of judgment in whatever form that takes in New
14 Hampshire with the assistance of his counsel.

15 I've taken the signatures today in Court of Ms.
16 Lloyd, Ms. Smith, and Mr. Thompson. So I'm putting my initial
17 and today's date next to their signature so that has been
18 satisfied.

19 Was there -- oh, there is another matter. Mr. Rolle,
20 pursuant to Federal Rule of Criminal Procedure 5(f), I remind
21 the prosecution of its obligation under Brady v. Maryland and
22 its progeny to disclose to the defense all information whether
23 admissible or not that is favorable to the defendant, material
24 either to guilt or to punishment, and known to the prosecution.

25 The prosecution must make good faith efforts to

1 disclose such information to the defense as soon as reasonably
2 possible.

3 I will enter a written order more fully describing
4 this obligation and the possible consequences of failing to
5 meet it. And I direct the prosecution to review that order and
6 to comply.

7 Does the Prosecution confirm that it understands its
8 obligations and will fulfill them?

9 MR. ROLLE: Yes, Your Honor, we will.

10 THE COURT: Thank you. Was there anything else on
11 behalf of the United States today?

12 MR. ROLLE: Yes, Your Honor, we have an application
13 for an order of excludable delay. We have an appearance date
14 of December 6th at 12:00 p.m. before Judge Komitee to whom this
15 case is assigned.

16 We have signed the paperwork. The basis for our
17 application to exclude time -- it was allowed -- is to allow us
18 time between today and December 6th to begin discussions with
19 counsel about the course of this case, discovery, any potential
20 pre-trial resolution that might be achievable, and to begin our
21 efforts in that regard.

22 And we think that in view of those bases, it would be
23 in the interest of justice to not have the time ticking away on
24 the speedy trial clock.

25 THE COURT: And has this been raised with Judge

1 Komitee?

2 MR. ROLLE: Yes, we spoke with Judge Komitee's
3 chambers before the appearance.

4 THE COURT: And does Judge Komitee say that you can
5 make the application to my attention?

6 MR. ROLLE: I'm going to check with the folks who
7 spoke with Judge Komitee's chambers.

8 (Counsel confer)

9 MR. ROLLE: Your Honor, we asked for the date. We
10 can call them back and ask for the, you know, their approval
11 and making the application. I think either way, it is in the
12 interest of justice. You can recommend that should Judge
13 Komitee --

14 THE COURT: I don't do recommendations. I will do it
15 under this one time, but that must be in all future requests.
16 I am sure that they assumed by giving you the date that they
17 were giving you permission, but it should be clear that they're
18 giving permission to make the application to the duty
19 magistrate judge for future, okay?

20 MR. ROLLE: And we'll be sure to check that going
21 forward.

22 THE COURT: So, Mr. Smith, I see that you have signed
23 this although who would know that that's a signature that says
24 Smith? And who would know that that's a signature that says
25 Dahlberg, but I assume you reviewed this with Mr. Dahlberg and

1 that you understand the application and its consequences; is
2 that correct?

3 THE DEFENDANT: That's correct.

4 THE COURT: And Mr. Dahlberg, do you concur with what
5 Mr. Rolle put on the record about excluding this time?

6 MR. DAHLBERG: Yes, I do and I discussed it with Mr.
7 Smith.

8 THE COURT: Okay. I need to make sure for myself
9 that you understand the nature of the request and its
10 consequences.

11 So the Government has 70 days from the date that
12 you're arraigned on the indictment, which is what we
13 accomplished maybe 40 minutes ago when we entered your not
14 guilty plea.

15 They have 70 days to commence the trial against you
16 under the Speedy Trial Act. If they do not commence the trial
17 within 70 days, your attorney can come into the Court and ask
18 that the charges be dismissed.

19 This application stops that 70-day clock today and
20 won't start to count the 70 days until your next appearance
21 before the Honorable Eric Komitee, who's the district judge
22 assigned to try this case. And that will be on December 6,
23 2023.

24 Do you understand the application and its
25 consequences?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: And did you discuss this matter with your
3 attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you have any questions for me, Mr.
6 Smith, regarding the application or its consequences?

7 THE DEFENDANT: I don't.

8 THE COURT: Then because the parties have represented
9 that they would like to engage in plea negotiations and discuss
10 this case in detail and focus their efforts on trying to
11 resolve the case without a trial, they have asked to exclude
12 the time between today and December 6th from the calculation of
13 Speedy Trial deadline.

14 And for the reasons on the record, I find that this
15 serves the ends of justice and outweighs the interests of the
16 publically named Defendant and Speedy Trial for the reasons
17 given on the record. And therefore, I grant the application.

18 Was there anything else, Mr. Rolle, before we
19 adjourn?

20 MR. ROLLE: No, Judge, thank you.

21 THE COURT: Anything else, Mr. Dahlberg? Your client
22 seems to have something. Yes.

23 MR. DAHLBERG: Yes, one thing, Your Honor. We would
24 ask if the Court would consider ordering the redaction of Mr.
25 Smith's home address from the last page of the indictment.

1 It's in the forfeiture allegation.

2 Mr. Smith has informed me that since the indictment
3 went public, and it's been I guess put out in the press release
4 or in the news or what have you --

5 THE COURT: People are coming around to his property
6 or?

7 MR. DAHLBERG: No, just that he's seeing threats
8 online directed towards him and his family.

9 THE COURT: Is there any reason why you couldn't
10 redact it at this point, but it's still going to be online for
11 I mean, I don't know how to get the postings down.

12 MR. DAHLBERG: I don't know. I think the cat is out
13 of the bag, Your Honor, but I just do this to the extent it
14 would help mitigate any future --

15 THE COURT: Mr. Rolle, any problem with that?

16 MR. ROLLE: No, Judge, we have no objection.

17 THE COURT: So you will redact the indictment?

18 MR. ROLLE: Well, I think we have to contact the
19 Clerk's Office to in terms of what is up there. And I think,
20 Your Honor, what they're going to ask for is that there be
21 something --

22 THE COURT: I'm granting the motion to redact --

23 MR. ROLLE: Okay.

24 THE COURT: -- that portion of the indictment --

25 MR. ROLLE: Thank you.

1 THE COURT: -- where his address is posted as part of
2 the forfeiture allegation. So I'm going to grant that
3 application and tell you to file a redacted copy. And they
4 could substitute one indictment for the other.

5 MR. ROLLE: And if you could just say that you direct
6 the Clerk's Office to docket the redacted --

7 THE COURT: I direct the Clerk's Office to docket the
8 redacted copy. And I will say that the other copy should be
9 restricted for parties' eyes only.

10 MR. ROLLE: Thank you, Your Honor.

11 THE COURT: Thank you. And I'm signing that Mr.
12 Smith should be released on the conditions set forth on the
13 record.

14 Mr. Dahlberg, anything else?

15 MR. DAHLBERG: No, Your Honor, thank you.

16 THE COURT: Then this matter is adjourned. Thank
17 you.

18 MR. ROLLE: Thank you.

19 THE CLERK: Thank you.

20 (Proceedings concluded at 3:37 p.m.)

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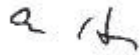
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CERTIFICATE

I, Chris Hwang, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

January 16, 2024

Chris Hwang

Date

Court Reporter